

Case No. #2-14-CR-00027-NDF-2

NOTICE OF MOTION AND MOTION FOR
 RECUSAL OF NANCY D. FREUDENTHAL ("NDF")
 AND EMERGENCY HABEAS CORPUS RELIEF

TO: Hon. Alan B. Johnson, USDC/DWY
 DATE: 3/22/2014 A.D.

FILED
 U.S. DISTRICT COURT
 DISTRICT OF WYOMING
 2014 MAR 27 PM 1

STEPHAN HARRIS, CLE
 CHEYENNE

Greetings Your Honor,

I am honestly appalled by the bias, prejudice, and discrimination exhibited by Mrs. Freudenthal at the 2-hour hearing yesterday in the above case (3/21/2014).

Please allow Me to highlight the worst of her misconduct in what follows; and, I will be happy to elaborate and supplement as needed by you, at your earliest convenience.

(1) First things first: I enjoy a fundamental Right, under the Petition Clause, to request Habeas Corpus and Civil RICO relief; but, NDF emphatically refused any such remedies to Me, and did so repeatedly. This prejudice is all the more serious, given the lack of proven criminal jurisdiction: I have repeatedly challenged jurisdiction from the beginning (arrest on 1/28/2014), ab initio.

(2) Venue is obviously proper in the Western District of Washington: during the period in question, I never left Seattle except for occasional trips to Fry's Electronics, in Renton, Wash.

"Petition Clause is the Right conservative
 of all other Rights." - U.S. Supreme Court

- 2 -

(3) Rules of Court cannot be strictly enforced upon litigants proceeding In Propria Persona. The relevant case law is correctly cited, in context, in My Petition to the U.S. Supreme Court for Writ of Certiorari in Mitchell v. AOL Time Warner, Inc. et al.; but, I am currently prevented from accessing the Internet and the large private database on the workstations in my private Seattle apartment. Rules of Court are not laws! See, e.g., Willy v. Coastal Corp. (Rules of court cannot expand or restrict original jurisdiction conferred by Act of Congress, notwithstanding the Abrogation Clauses at 28 U.S.C. 2072, and the former law at 18 U.S.C. 3771 (June 25, 1948) later replaced!)

(4) Speaking of law libraries, there is no U.S. Code, no CFR, and no Parallel Table of Authorities at the Scottsbluff County Detention Center in Nebraska. I invite NDF to spend just one 24-hour day here, to witness that ADJUDICATIVE FACT first-hand. Maybe then she will better understand FREV Rule 201(c)(2)! Maybe. Maybe not.

28 USC 2072

18 USC 3771

FREV

Rule 201(c)(2)

- 2 of 11 -

- 2 of 11 -

- 3 -

(5) NDF is flatly wrong about mandatory judicial notice, which is not limited to factual matters like the weather at noon yesterday. I have now lodged two (2) criminal complaints, against Messrs. James Marcy and Dave Buest, and I required mandatory judicial notice of both, in part to satisfy my legal obligations imposed by 18 U.S.C. 4 (misprision). Those criminal complaints document matters of fact that were duly verified pursuant to 28 U.S.C. 1746. NDF is therefore aiding and abetting suppression of exculpatory evidence. See Brady v. Maryland. The relevant matters of fact include the well documented refusals of personnel, like William M. McCool, to produce ANY evidence of their OPM Standard Form 61 - or - their OPTH imposed by 28 U.S.C. 951. Here, see 5 U.S.C. 5507 (can't be said), and 18 U.S.C. 912 (felony imprisonation).

(6) The very same refusal has been true of Stephen Harris for at least 6 years! His missing OPTHs are a major factual matter in my defense, and in my challenge to jurisdiction: 28 U.S.C. 1691.

NOT
discretionary
18 USC 4

28 USC 1746
(without U.S.)

28 USC 951
5 USC 5507
18 USC 912

28 USC 1691

- 3 of 11 -

- 3 of 11 -

28 U.S.C. 1691.

- 4 -

28 USC 1691

(7) "Indictments" are obviously "process" as the latter term occurs at 28 U.S.C. 1691. But, NDF arbitrarily ruled that all indictments are exempt from the clear and long-standing requirements of that statute, to wit: Clerk's authorized signature and the Court's official seal.

(8) NDF also had a serious conflict of interest because her signature is found on the "warrant" for my arrest; but, the FACTS call for the unavoidable conclusion that Offr. Harris was not the Clerk of Court when that "warrant" was signed by NDF!!

Moreover, no such document can ever be a valid "indictment" as long as it was issued by a panel of federal citizens, selected and summoned pursuant to a Jury Selection and Service Act which obviously discriminates against State Citizens (read Citizens of ONE OF the 50 States united). See Pannill v. Roanoke (federal citizens were not even contemplated when the organic Constitution was first being drafted!); and, "Citizenship for Dummies," by Paul Andrew Mitchell, B.A., M.S. NDF must be such a "dummy"! :-)

28 USC 1861 et seq.

- 4 of 11 -

- 4 of 11 -

- 5 -

see also Agency Holding v. Malley-Duff.

FRCrP Rule 2

18 USC 1964

(9) Another incident of vicious bias was confirmed, when NDF decided to "apologize" for trying to insinuate that my "drive" to investigate so many missing and defective credentials was evidence of some kind of psychotic obsession, or "mental illness." By that insult she relinquished all claims to being fair, objective and unbiased in this case. See FRCrP Rule 2 ("provide ... just determination ... and fair administration"). What if I had insulted her??

(10) Of equal or greater significance is NDF's demonstrated ignorance concerning 18 U.S.C. 1964, and ^{its} standing case law, which I have frequently cited in several filed pleadings, notably Rotella v. Wood. The latter explains the objectives of the RICO laws, and defines the functions and goals of private attorneys general, i.e. to investigate diligently and prosecute, to suppress and eliminate organized criminal rackets. How very brazen of anyone, like me, to investigate infiltration of the Federal Judiciary, only to be obstructed in my official efforts to prosecute racketeering activities by

- 5 of 11 -

- 5 of 11 -

- 6 -

the several subjects: they are properly
named in the VERIFIED CRIMINAL COMPLAINTS,
 ON INFORMATION now duly filed in this
 Court's docket records! NDF is now
personally liable to Me for the clear
 and previously demonstrated lack of
 criminal jurisdiction: Stamps v. Sparkman.
 Ironically, this USDC does enjoy original
 jurisdiction in Civil RICO cases, pursuant
 18 USC 1964 To 18 U.S.C. 1964(c), which is also THE
 primary authority for the automatic 3X
 TRIPLE DAMAGE multiplier. In light of
 NDF's lack of knowledge and experience
 with Civil RICO and ^{its} standing case law,
 I submit to you that she is probably
 also totally unaware that RICO's
 Liberal Construction Rule was never
 18 U.S.C. 1961
 Notes codified anywhere in the U.S. Code! 18 U.S.C. 1961.
 (11) There is also more than an ample
 proof now in the record of numerous
 Sixth Amendment violations e.g.
ineffective assistance of counsel, lack of
access to a dequate law libraries,
destruction of My legal notes during
 frequent moves, lack of Internet access,
 and a need to beg for stamps and envelopes.
 ?? - 6 of 11 -

- 7 -

Throwing Me in solitary confinement, on the basis of several lies, Surely set the shrill tone on 1/28/2014: the Feds have effectively CRUSHED my Right of self-defense, while insisting that all such vicious retaliation is "due process of law" as defined by the Fifth Amendment. Here, please see Johnson v. Zerbst (a Federal court is OUSTED of jurisdiction if it does not guarantee effective assistance of Counsel at every step in the proceedings). Of course, a Federal court cannot be "ousted" of jurisdiction in personam, if it did not enjoy such jurisdiction in the first instance. See 18 U.S.C. 1513 (retaliation).

18 USC 1513

(12) None of the Clerk's Office personnel in Seattle, or in Cheyenne, ever produced any OATHs required by 28 U.S.C. 951. None of DOJ's personnel in Cheyenne ever produced any OATHs required by 28 U.S.C. 544. Neither of the 2 IRS personnel - James Marcy and Dave Buest - has produced any valid

28 USC 951

28 USC 544

44 USC 3501

et seq.

5 CFR 1320.5

- 7 of 11 -

U.S. OPM Standard Form 61 APPOINTMENT AFFIDAVITS ("SF-61"); and, Christopher A. Crofts' SF-61 is also ^aCOUNTERFEIT violating 44 U.S.C. 3501 et seq. and 5 CFR 1320.5.

- 7 of 11 -

- 8 -

28 USC 530B

28 USC 544

FRCrP Rule 6

IRC 7701(a)

"The Federal Zone"

IRC 7701(a)(30)

26 CFR 1.1-1

5 USC 552a

5 CFR 1320.5

- 8 of 11 -

Mr. Murray, therefore, is not qualified to enter a grand jury room, nor legally to represent any Proper Party in the instant case; same is true of Mr. Crofts. The instant case should be dismissed with prejudice on the basis of the holdings in U.S. v. Pignatiello, if nothing else: That case just happens to be RIGHT ON POINT!! See 28 U.S.C. 544, Rule 6.

(13) NDF is evidently fond of assuming facts not in evidence: I am not a "taxpayer" as the latter term is defined at IRC 7701(a), where "internal" means "municipal". See also the definition of "United States person" at 7701(a)(30); and, 26 CFR 1.1-1 which vainly attempted to create a specific income tax liability, but ONLY for federal citizens and resident aliens. Compare also the identical definition of the term "individual" at 5 U.S.C. 552a (Privacy Act).

(14) The APPLICATION FOR ORDERS [to OPM and to OMB]-TO SHOW CAUSE why both should not be compelled to comply with 5 CFR 1320.5-has now become a matter of ever-expanding urgency, as long as OPM's COUNTERFEIT SF-61 is allowed to remain in electronic

- 8 of 11 -

- 9 -

form at OPM's Internet website (opm.gov).
 Look at the current situation this way,
please: viral distribution of that
COUNTERFEIT may be implicating
 OPM's responsible personnel in multiple
 acts of wire fraud, in violation of

18 USC 1343

18 USC 1962(d)

18 USC 1961(5)

18 U.S.C. 1343 and 1962(d). See 18 U.S.C. 1961(5).

(15) The pending MOTIONS TO DISMISS (2x
 to date) should be assigned to some other
 U.S. District Judge i.e. one whose four
 required credentials are all in proper
 order i.e. SENATE CONFIRMATION,
 PRESIDENTIAL COMMISSION, APPOINTMENT
 AFFIDAVITS and OATH OF OFFICE.

(16) In light of all the FRAUD upon this Court,
 this defendant and Relator should be
 released promptly and returned to his
 private dwelling unit in Seattle at the
 expense of, and under the protection of,
 the U.S. Marshals Services in Nebraska,
 Wyoming and Washington State.

Thank you very much for your
 continuing professional consideration.

(please continue next page)

- 9 of 11 -

- 9 of 11 -

- 10 -

INCORPORATION OF RECORDS: FREV Rule 201(c)(2)FREV
Rule 201(c)(2)

Once again, all records currently in the legal custody of the Offices of Clerk of Court at the USDC/DWY in Cheyenne, and at the USDC/WDNA in Seattle, are hereby incorporated by reference, as if set forth fully here, pursuant to Rule 201(c)(2) of the Federal Rules of Evidence (mandatory judicial notice). THEREFORE, all required credentials, as already documented in the instant case, now assume facts not in evidence before this honorable Court. Moreover, a sufficient amount of time has now elapsed to justify activation of estoppel against Messrs. Stephan Harris, Zachary Fisher, William M. McCool and Mr. T. Hilliker. (Cf. "legal estoppel" and "equitable estoppel" in Black's Law Dictionary, Sixth Edition.) *

Also attached: ANNOTATED "Memorandum of Conversation" (3/14/2014) (please continue next page)

see:

28 USC
1345, 1346
- 10 of 11 -

* Please note that subsequent editions of Black's Law Dictionary omitted any definitions of "United States".

- 10 of 11 -

- 11 -

- REMEDIES -

Mr. Nancy D. Freudenthal should be recused; and, all premises having been duly considered, this defendant and Relator should be released to unfettered liberty, and the U.S. Marshals should be ordered to transport him without delays to his private apartment in Seattle, Washington State, at the culmination of a priority hearing on his PETITION FOR HABEAS CORPUS RELIEF (see Docket Entry #33). Failure to adjudicate that PETITION thus far to date has inflicted enormous damages upon this defendant and Relator, which can, and should, be quantified and recovered by him, using litigation under 18 U.S.C. 1964 (Civil RICO), 42 U.S.C. 1986, and a Bivens-type action - for starters. Thank you.

Dated: 3/22/2014

Signed: Paul Andrew Mitchell, Suifuris
 Printed: Paul Andrew Mitchell, B.A., M.S.
 Private Attorney General, 18 U.S.C. 1964
 All Rights Reserved (cf. UCC 1-308)
 without prejudice to any Rights

18 USC 1964
 42 USC 1986
Bivens

18 USC 1964
 UCC 1-308
 - 11 of 11 -

- 11 of 11 -



DEPARTMENT OF THE TREASURY
Internal Revenue Service
Criminal Investigation

Memorandum of Conversation

Investigation #: 1000257803 **Location:** Telephonic
Investigation Name: Mitchell P. Modeleski
Date: March 14, 2014
Time: Approximately 9:40-9:56 a.m.
Participant(s): Dr. John Alden, Witness
 David L. Guest, Special Agent
 James K. Marcy, Special Agent

1. On the above date and time I, (Special Agent (SA) James Marcy, and SA Dave Guest contacted Dr. John Alden at (510) 525-5194, a phone number for the Oakland, California area. I told Dr. Alden we were special agents with Internal Revenue Service-Criminal Investigation. I informed Dr. Alden we have been assisting the United States Attorney's Office with an on-going investigation and now are preparing for trial on Mitchell Paul Modeleski, AKA Paul Andrew Mitchell (Modeleski). During our telephonic interview with Dr. Alden he substantially stated the following unless otherwise noted.
2. Dr. Alden is an ophthalmologist (MD). Dr. Alden knows Modeleski as a client and as a friend. Dr. Alden has known Modeleski since approximately 1980. He knows Modeleski as both "Paul Andrew Mitchell" and "Mitchell Paul Modeleski."
3. Modeleski attended UCLA and received an extremely high GPA, "like a 4.0." He remembers Modeleski was first in college pursuing a degree in "public policy" but he ended up being a computer programmer in California, possibly around the bay area. Modeleski also received a "Master's degree" from UCLA. Modeleski is very good with computers and a guy that was a head of anyone at that time with computers.
4. I told Dr. Alden that his name came up during a court hearing yesterday (03-13-2014) in the District of Wyoming. During the hearing a colleague of Dr. Alden's, a person's whose name was not provided to the Western Washington Probation Office (W/WA Probation), told a W/WA Probation official that Modeleski has mental health issues.
5. I asked Dr. Alden based on his relationship with Modeleski if there were mental health issues the government should know about. Dr. Alden said, "I don't know." He followed up by telling us Modeleski is very bright and dedicated. Modeleski can have such focus on what his interests and issues are at hand that it leads to the exclusion of his social graces. Dr. Alden stated Modeleski is "maybe more like autistic" or a "savant" and his focus leads to other traits

Refused
for Causes:

contains numerous
factual, grammatical and
spelling errors; 2 x undersigned to
failed to disclose any authority to
display Department of the Treasury ":

see Docket #41, attachments (a): NOTICE AND
DEMAND FOR AUTHORITY, * (c) FOIA Request,
(d) VCC** charging Marcy and Guest; and,
Docket #40 VCC** and Exhibits: FOIA Requests (2x),
[continued on next page]
* see 31 U.S.C. 333 in particular + all other
authorities cited therein e.g. 31 U.S.C.
301 thru 315 etc. p9m
#2: 14-CR-00027-NDF-2
** "VCC" = VERIFIED
CRIMINAL COMPLAINT,
ON INFORMATION

suffering, like his social skills.

6. Dr. Alden remembers that Modeleski use to have wear contacts at one time. He has not spoken with Modeleski for the past 5-10 years. Dr. Alden believes he tried to get Modeleski's email address a couple of years ago, after Modeleski had moved to Washington.
7. Dr. Alden knows at some point Modeleski got into this "tax thing."
8. Modeleski wrote a book titled, "The Federal Zone: Cracking the Code of Internal Revenue." Dr. Alden read the book and was very impressed by it. Modeleski did a lot of research to author that book, in fact, Dr. Alden checked on Modeleski's research and "it checked out." He may still have this book in one of his closets. He said there is a lot of information in the book including stuff about the constitution, courts on how they used to be and how they are now, taxes, etc.
9. Dr. Alden did take some psychology classes and in his "semi-professional opinion" believes Modeleski is somewhere in the spectrum of being autistic. When I asked him again if Modeleski has mental health issues he stated, "some people would definitely think so," but everyone has a different definition of mental health. He believes there to be different "shades of autism." Modeleski is "definitely different, very intelligent" and is a person who "knows the law like a Jehovah's Witness knows the bible."
10. Dr. Alden knows of no other physicians or friends of Modeleski. He concluded by saying he admires Modeleski because of his focus and dedication on issues, but recognizes Modeleski is not always a likeable guy because of his social skills.
11. Dr. Alden asked what is taking place now with Modeleski. I told him there is a trial set for April 14, 2014 in front of Judge Freudenthal in Cheyenne, Wyoming with Modeleski being one of the defendants. Dr. Alden asked us if we were going to be at the trial. I told him well will be there as we are the investigating agents. He then said it will be an interesting trial or something very similar.

I prepared this memorandum on March 14, 2014, after refreshing my memory from notes made during and immediately after the conversation with Dr. Alden.

James K. Marcy ^E

James K. Marcy
Special Agent

David L. Guest ^E

David L. Guest

NOTICE AND
 DEMAND FOR AUTHORITY
 (2x); and, Docket #22,
 SF-61 for Marcy REFUSED
 FOR CAUSES, FOIA Request
 for Murray's credentials (IN DEFAULT),
 FOIA Request for Crofts' credentials
 (IN DEFAULT), SF-61 for Crofts
 REFUSED FOR CAUSES, the TRANSMITTAL
 OF MAIL FRAUD REPORT, and case law
 under 28 U.S.C. 1691 (8 pages of case law).
 Legend: "SF-61" = U.S. Office of Personnel Management ("OPM")
 Standard Form 61 APPOINTMENT AFFIDAVITS required by
 5 U.S.C. 3331, 3332, 3333, #2; 14-CR-00027-NDF-2
 2104, 2903, 2906.
 * See 31 U.S.C. 333 in particular +
 all other authorities cited therein
 e.g. 31 U.S.C. 301 thru 315,
 27 C.F.R. 26.11,
 etc. PM

See Annotations
on reverse side...

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSEPH RUBEN HILL
(Counts 1 - 8)

and

MITCHELL PAUL MODELESKI, aka
Paul Andrew Mitchell,
(Counts 1 - 7 and 9)

Defendants.

Proper spelling :-)

INDICTMENT

THE GRAND JURY CHARGES THAT:

INTRODUCTION

At all times relevant to this Indictment:

1. The Defendant **JOSEPH RUBEN HILL** resided in Cheyenne, Wyoming, and engaged in business consultation through the Creative Consulting Group, or "CCG".

2. The Defendant **MITCHELL PAUL MODELESKI** resided in Seattle, Washington, and, using the name Paul Andrew Mitchell, called himself a "Private Attorney General" with the "Supreme Law Firm." **MODELESKI** operated the "Supreme Law Firm" out of a rented one-bedroom apartment in Seattle, Washington, and he claimed the firm's specialty

No. 14-cr-27-f

Ct. 1: 18 U.S.C. § 1512(k)
(Conspiracy to Obstruct Justice)

Cts. 2-7: 18 U.S.C. §§ 1512(b)(2)(A) and 2
(Obstruction of Justice and Aiding
and Abetting)

Cts. 8-9: 18 U.S.C. § 1512(c)(2)
(Obstruction of Justice)

REFUSED FOR
CAUSES: See
Annotations on
reverse side...

PM

Refused for
CAUSES e.g.:

Mr. Stephen Harris is not
a lawful Clerk of Court;
no SF-61 and no 28 U.S.C. 951 OATH
have been produced for him, by him, for
at least six (6) years! As such,
Harris is now stopped! see Carmine v. Bowler
(silence activates estoppel);
lack of Clerk's authorized signature and
of Court's official seal violates 28 U.S.C. 1691,
first enacted on 6/25/1948 and never amended;
Christopher A. Crofts' SF-61 is fatally defective;
no OMB control number and no paragraph citing
review, or approval, violates 44 U.S.C. 3501 et seq.;
44 U.S.C. 3512 (PRA Public Protection
clause), and 5 CFR 1320.5
(PRA implementing
Regulation).
(continued on
reverse side of
next page 6...)

REFUSED FOR CAUSES:

See Annotations on reverse side...

Court frivolous demands for evidences of authority of court personnel to issue subpoenas on behalf of the grand jury. NO! See Miranda v. Arizona (re: Rights secured by the Constitution)!!

In violation of 18 U.S.C. § 1512(c)(2)

COUNT NINE

Matters arising under the U.S. Constitution are NEVER "frivolous".

On or about January 10, 2013, in the District of Wyoming and elsewhere, the Defendant,

MITCHELL PAUL MODELESKI, aka Paul Andrew Mitchell, did knowingly and corruptly obstruct, influence and impede the grand jury an official proceeding and attempted to do so, by sending to the United States District Court notices that failure to respond to demands for evidences of authority established the absence of any authority of court personnel to issue

subpoenas on behalf of the grand jury

In violation of 18 U.S.C. § 1512(c)(2).

A TRUE BILL:

FOREPERSON

CHRISTOPHER A. CROFTS
United States Attorney

See Annotations on reverse side...

NB: Pages 2 thru 5 also contain "surplusage" which should be stricken, pursuant to FRCrP Rule 7(d). (See over for details.)

(continued...)

Crofts also lacks the second OATH required by 28 USC 544, as such he cannot enter a grand jury room, nor authorize any assistants: see FRCP Rule 1(b)(1)(B) and Rule 6(d)(1); Crofts also cannot legally represent the named "Plaintiff" which incorporates twice (2x) in Delaware, but both corporations were later revoked by the Delaware Secretary of State: the "United States" (federal government) is not a corporation; see U.S. v. Cooper Corp. Debra F. Halothus was not the jury: jury selection and service Act discriminates against State Citizens at 28 U.S.C. 1865, 1861 et seq. Harris cannot select, or summon, a lawfully convened Federal Grand jury: jury selection and service Act discriminates against State Citizens at 28 U.S.C. 1865, 1861 et seq. war names in FRCP "noms de guerre" are evidence of a state of war/mixed war, implying treason: see 18 U.S.C. 2381, 2382, 2383, 2384, 2385. Returned to USDC/DW4. PAM